

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-6043

DEWEY KEITH VENABLE,

Plaintiff - Appellant,

v.

CAPTAIN TRAVIS MCCOY; SARGENT LARRY R. COLLINS; C/O S.
STEPHENS; L. VITATOE; CORRECTIONAL OFFICER BENTLEY;
CORRECTIONAL OFFICER DEEL; WALTER SWINEY; STEVEN
FRANKLIN; SGT. ERIC MILLER,

Defendants - Appellees,

and

WARDEN RANDALL MATHENA; CORRECTIONAL OFFICER JAMES C.
MULLINS,

Defendants.

Appeal from the United States District Court for the Western District of Virginia, at
Roanoke. Pamela Meade Sargent, Magistrate Judge. (7:14-cv-00295-PMS)

Submitted: April 25, 2017

Decided: April 28, 2017

Before MOTZ, DUNCAN, and AGEE, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Dewey Keith Venable, Appellant Pro Se. Jeremy Brandon O'Quinn, O'QUINN LAW OFFICE, PLLC, Wise, Virginia; Nancy Hull Davidson, Assistant Attorney General, Richmond, Virginia; Rosalie Fessier, TIMBERLAKE, SMITH, THOMAS & MOSES, PC, Staunton, Virginia, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Dewey Keith Venable appeals the district court's judgment, following a bench trial, denying his Eighth Amendment claims under 42 U.S.C. § 1983 (2012). Venable also appeals the district court's interlocutory rulings dismissing or granting partial summary judgment in favor of certain Defendants on his § 1983 claims.

On appeal, we confine our review to the issues raised in the Appellant's brief. *See* 4th Cir. R. 34(b); *Williams v. Giant Food Inc.*, 370 F.3d 423, 430 n.4 (4th Cir. 2004). We have reviewed the district court's rulings on the Defendants' motions to dismiss and for summary judgment in light of the arguments Venable raises and have found no reversible error. We therefore affirm these rulings for the reasons stated by the district court. *See Venable v. McCoy*, No. 7:14-cv-00295-PMS (W.D. Va. Sept. 23, 2015 & Jul. 6, 2016).

Venable also makes several conclusory claims of error during the bench trial, but the record does not contain a trial transcript. An appellant has the burden of including in the record on appeal a transcript of all parts of the proceedings material to the issues raised on appeal. Fed. R. App. P. 10(b); 4th Cir. R. 10(c). An appellant proceeding on appeal in forma pauperis is entitled to transcripts at government expense only in certain circumstances. 28 U.S.C. § 753(f) (2012). Venable has not produced a transcript and fails to make the requisite showing to qualify for the production of a transcript at government expense. Thus, Venable has waived review of the issues on appeal that depend upon the transcript to show error. *See generally* Fed. R. App. P. 10(b)(2); *Keller v. Prince George's Cty.*, 827 F.2d 952, 954 n.1 (4th Cir. 1987). No trial error appears on the record before us.

Accordingly, we affirm the district court's judgment. We deny Venable's motions for a transcript at government expense, for appointment of counsel, and to move the case forward. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED